

REMARKS

The Examiner is thanked for the Official Action dated June 28, 2006. The above amendment and remarks to follow are intended to be fully responsive thereto.

Claim 27 was rejected under 35 U.S.C. 112 first paragraph because the specification “does not reasonably provide enablement for how to detecting the persons”. Applicant respectfully disagrees. First, the Examiner has erroneously assumed that person carries/wears the mobile wireless data entry terminal. The claim does not require the terminal to be carried or worn by the person. The claim is quite clear that the vehicle carries the mobile wireless data entry terminal. The Examiner further erroneously concludes that the vehicle itself has no wireless communication device attached to it. However, the claim does not preclude a mobile device from being attached to the vehicle. The claim simply reads “determining whether a selected person is present in a vehicle carrying the mobile wireless data entry terminal”. The plain and ordinary reading of this language simply means that a selected person is detected within a vehicle, the vehicle in turn carrying the mobile wireless data entry terminal. One of ordinary skill in the art can easily understand this plain and ordinary language. Contrary to the Examiner’s assertion the specification fully supports and enables claim 27.

It is first significant to note that Applicant is not claiming specific details of the manner of determining whether a selected person is present in a vehicle. Rather, the claimed invention is directed a method for analyzing and displaying time-stamped position data from a vehicle carrying a mobile wireless data entry terminal which include some individually known steps in the art such as detecting a selected person. The claimed steps are novel and, therefore, void in the prior art. Furthermore, MPEP 2164.01 clearly states that any analysis of whether a particular claim is supported by the disclosure in an

application requires a determination of whether that disclosure contains sufficient information regarding the subject matter of the claims as to enable one skilled in the pertinent art to make and use the claimed invention. The test of enablement is whether one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation. For example, one skilled in the art would readily realize “how to” detect (or sense) a selected person, such as the very means suggested by the Examiner. Furthermore, MPEP 2164.01 specifically emphasizes that “A patent **need not teach, and preferably omits**, what is well known in the art” (Emphasis added). Detecting a selected person, in and of itself, is well known and well within the ordinary skill of persons within the art. Thus, contrary to the Examiner’s assertion the claimed invention certainly enables one of ordinary skill in the art to make use of the invention. Applicant again stresses that the particular mechanism and manner used to detect a selected person are not claimed in the present invention but rather one simple step of detecting a select person (within a set of additional novel steps) which is otherwise well known in the art. Therefore, one of ordinary skill in the art will readily recognize the use of “sensors such as fingerprint sensor, voice sensor, or any other type of electronic device attached to the persons” as proffered by the Examiner, evidencing the fact that such systems are well known and thus the specification and claims meet the enablement requirement under 35 U.S.C. 112 first paragraph.

Claims 18-23 were rejected under 35 U.S.C. 112, second paragraph for insufficient antecedent basis for the term “said vehicle.” Claims 17 has been amended to recite the vehicle thus providing proper antecedent basis to claims 18-23.

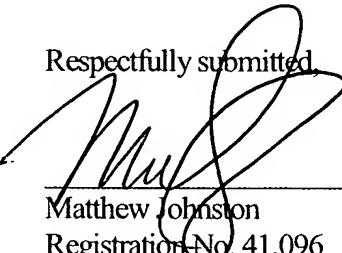
Claims 27, 29-31, & 34-37 were rejected under 35 U.S.C 103(a) as being unpatentable over Jones '569 in view of Marcarelliet et al. '081. Claim 28 was rejected under 35 U.S.C 103(a) as being unpatentable over Jones '569 in view of Marcarelliet et al. '081 in further view of Goldberg, et al. '509. Claims 17-25, & 32-33 were rejected under 35 U.S.C 103(a) as being unpatentable over Jones '569 in view of Marcarelliet et al. '081 in further view of Kuma '286. Claim 26, was rejected under 35 U.S.C 103(a) as being unpatentable over Jones '569 in view of Marcarelliet et al. '081, in view of Kuma '286 and further in view of Goldberg '509.. Claim 38 was rejected under 35 U.S.C 103(a) as being unpatentable over Jones '569 in view of Marcarelliet et al. '081 in further view of Flick '659. Claim 39 was rejected under 35 U.S.C 103(a) as being unpatentable over Jones '569 in view of Marcarelliet et al. '081 in further view of Hanebeck '141. Applicant respectfully disagrees.

It is first noted that the Examiner has compiled several references and several teachings in an attempt to reconstruct the claimed invention. Such hindsight reconstruction is impermissible. Nevertheless, the prior art fails to disclose the claimed method having a step to determine whether the mobile wireless data entry terminal is being tampered with. The prior art discloses nothing more than a theft or vehicle tampering detection component. The presently claimed invention is directed to the detection of tampering of the mobile wireless data entry terminal (not the vehicle itself), such as by a driver who is authorized to occupy and drive the vehicle. Conventional vehicle tamper detection systems do not facilitate such detection. The Examiner is reminded that in order to establish even a *prima facie* case of obviousness, the prior art must teach or suggest all the claimed limitations. MPEP 2143. The prior art simply fails to disclose the recited method including the step of determining whether the mobile wireless data entry terminal is being tampered with. Therefore, because the prior art fails to disclose the method of determining whether the mobile wireless data entry terminal is being tampered with, apart from a vehicle theft or tamper system legit alone the

entirel collection of novel steps, any rejection of the claimed invention under 35 U.S.C. 103 is improper.

It is respectfully submitted that claims 17-39 & 84-89 define the invention over the prior art of record and are in condition for allowance, and notice to that effect is earnestly solicited. Should the Examiner believe further discussion regarding the above claim language would expedite prosecution they are invited to contact the undersigned at the number listed below.

Respectfully submitted,


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